

PATENT COOPERATION TREATY

CORRECTED VERSION

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

see form PCT/ISA/220

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/B2004/004197

International filing date (day/month/year)
15.12.2004

Priority date (day/month/year)
19.12.2003

International Patent Classification (IPC) or both national classification and IPC
B60J7/06, B60J7/047, B60J7/12

Applicant
FERRARI S.P.A.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**International application No.
PCT/IB2004/004197

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material:
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing:
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**International application No.
PCT/B2004/004197

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	18-28
	No: Claims	1-17,29-37
Inventive step (IS)	Yes: Claims	
	No: Claims	1-37
Industrial applicability (IA)	Yes: Claims	1-37
	No: Claims	

2. Citations and explanations**see separate sheet**

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/IB2004/004197

To Chapter V.2.

Reference is made to the following documents:

- D1: EP-A-1 260 394 (WILHELM KARMANN GMBH) 27 November 2002 (2002-11-27)
- D2: DE 102 59 864 A1 (WILHELM KARMANN GMBH) 15 July 2004 (2004-07-15)
- D3: DE 202 14 460 U1 (INALFA INDUSTRIES B.V., AB VENRAY) 19 February 2004 (2004-02-19)
- D4: DE 195 31 074 C1 (WEBASTO KAROSSERIESYSTEME GMBH, 82131 STOCKDORF, DE) 12 September 1996 (1996-09-12)
- D5: DE 94 11 974 U1 (BAUER, ANTON, 63500 SELIGENSTADT, DE; BRUDER, FRITZ, 63500 SELIGENSTADT) 23 November 1995 (1995-11-23)
- D6: US-A-5 897 160 (REIHL ET AL) 27 April 1999 (1999-04-27)
- D7: DE 101 30 267 A1 (WEBASTO VEHICLE SYSTEMS INTERNATIONAL GMBH) 9 January 2003 (2003-01-09)
- D8: US-A-2 794 672 (BURZI RICHARD) 4 June 1957 (1957-06-04)

V.2.1 Independent Claim 1

Document D1 shows:

- A motor vehicle, which is provided with a folding top (Dach 2), which is supported by a frame (see Karosserieseitige Horizontalschwenkachse 17) of the motor vehicle, can be set in an open position or in a closed position, and comprises an element of covering (Rahmenprofile 6), which is substantially horizontal in the closed position; wherein the element of covering (Rahmenprofile 5) is hinged at the rear to the frame of the motor vehicle so that it can rotate about a first horizontal axis (parallel to Horizontalschwenkachse 17) when the folding top (Dach 2) passes from the open position to the closed position or viceversa.

Therefore, the present application does not satisfy the criterion set forth in Article 33 (2) PCT because the subject-matter of independent claim 1 is not new in respect of prior art as defined in the regulations (Rule 64 (1)-(3) PCT).

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International application No.

PCT/IB2004/004197

V.2.2. Claims 2-37 depending on Claim 1

The features of the claims 2-37 depending on claim 1 do not add new features or anything of inventive significance (in the sense of Arts. 33 (2) or (3) PCT) to the subject-matter of claim 1.